

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MIKE HARRIS and JEFF DUNSTAN,
individually and on behalf of a class of
similarly situated individuals

Plaintiff,

v.

COMSCORE, INC., a Delaware corporation

Defendant.

CASE NO. 1:11-cv-5807

Judge Holderman

Magistrate Judge Kim

**COMSCORE, INC.'S MOTION FOR LEAVE TO FILE ITS
MOTION TO TRANSFER UNDER 28 U.S.C. §1404(a)**

comScore, Inc. (“comScore”) respectfully moves for leave to file its proposed Motion to Transfer Under 28 U.S.C. §1404(a), attached hereto as Exhibit 1, as an amendment to its Renewed Motion to Dismiss Under Rule 12(b)(3). comScore filed its Renewed Motion to Dismiss on October 30, 2013, for the purpose of enforcing the forum selection clause agreed to by Plaintiffs. (Dkt No. 242.) However, on December 3, 2013 (after comScore’s Renewed Motion to Dismiss and Plaintiffs’ responsive brief had been filed), the United States Supreme Court held that the proper motion for enforcing a forum selection clause is a motion to transfer pursuant to 28 U.S.C. §1404(a). *Atl. Marine Constr. Co., Inc. v. U.S. Dist. Court for W. Dist. of Texas*, 134 S. Ct. 568, 575 (December 3, 2013). 28 U.S.C. §1404(a) provides that “[f]or the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought or to any district or division to which all parties have consented.”

The Supreme Court's decision in *Atl. Marine Constr. Co., Inc.* is a change in the law of this Circuit. Prior to that decision, the Seventh Circuit enforced forum selection clauses by dismissing the action. *See, e.g., Adams v. Raintree Vacation Exch., LLC*, 702 F.3d 436, 444 (7th Cir. 2012) (affirming the district court's dismissal of a suit for improper venue on the basis of a forum selection clause). Because the binding authority has changed since comScore filed its Renewed Motion to Dismiss, comScore's Motion for Leave to File Its Motion to Transfer under 28 U.S.C. §1404(a) should be granted.

DATED: December 23, 2013

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/s/ Andrew H. Schapiro

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Attorneys for Defendant comScore, Inc.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing has been caused to be served on December 23, 2013 to all counsel of record via the Court's ECF notification system.

/s/ Robyn M. Bowland
Robyn Bowland